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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,708	02/20/2002	Minoru Hashimoto	SCEIYO 3.0-122	7649
530 7590 08/03/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER MIRZA, ADNAN M	
			ART UNIT 2145	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/079,708	Applicant(s) HASHIMOTO ET AL.	
	Examiner Adnan M. Mirza	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12,19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al (U.S. 5,671,354) and further in view of Shiotsu et al (U.S. 6,993,358)

As per claims 1,6,19 Ito disclosed A communication system, comprising: a plurality of client terminal devices connected to a network, each client terminal device being assigned a unique identification number (col. 4, lines 21-28); and a communication server machine connected to the network and operable to manager, based on the identification numbers, user information for users of each client terminal device indicating at least conditions under which each client terminal device is connected to the network (col. 2, lines 27-41), and (ii) to make a connection for communication between the first client terminal device and the second client terminal device (col. 2, lines 55-66).

However Ito failed to disclose, "Communication server machine being further operable (i) to select a communication application suitable for both a first client terminal device and a second client terminal device based on the user information for a user of the first client terminal device and a user of the second client terminal device, after at least one of the users request

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communication. Wherein the conditions include an available transmission bit rate of client terminal device and a type of peripheral device associated with each client terminal device.

In the same field of endeavor Shiotsu disclosed, "A communication monitoring and controlling program for use with the information processing device is stored in a recording medium, and causes a processor of the information processing device to execute a step of Iteratively monitoring the communication state of the first and second communication units when the first communication unit is connected to another unit of another device, and a step of controlling the transmission condition of a wireless transceiver of the first communication unit in accordance with the communication states of the first and second communications units and with an application activates in relation to the connection of the first communication unit or device data of the another information processing device with which the subject information processing device is communicating (col. 4, lines 45-58). The user may select a setting mode display on the personal computer 1 and enter titles of available information processing devices data, such as types of the information processing devices with which the personal computer is to communicate or protocol by which communication is to be done. Then, he or she modifies, through a keyboard, the transmission power default values (for example, the highest transmission power of 1 m W and other values) by entering the higher transmission power level H_i or H_{ij} and the lower transmission power level L_{ij} for each of the entered application programs or device data" (col. 7, lines 20-30).

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It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated that A communication monitoring and controlling program for use with the information processing device is stored in a recording medium, and causes a processor of the information processing device to execute a step of Iteratively monitoring the communication state of the first and second communication units when the first communication unit is connected to another unit of another device, and a step of controlling the transmission condition of a wireless transceiver of the first communication unit in accordance with the communication states of the first and second communications units and with an application activates in relation to the connection of the first communication unit or device data of the another information processing device with which the subject information processing device is communicating. The user may select a setting mode display on the personal computer 1 and enter titles of available information processing devices data, such as types of the information processing devices with which the personal computer is to communicate or protocol by which communication is to be done. Then, he or she modifies, through a keyboard, the transmission power default values (for example, the highest transmission power of 1 m W and other values) by entering the higher transmission power level H_i or H_{ij} and the lower transmission power level L_{ij} for each of the entered application programs or device data as taught by Ito in the method and system of Shiotsu to increase the efficiency of managing the network bandwidth and selecting more efficient transmission rate.

2. As per claims 2,9 Ito-Shiotsu disclosed A communication method, comprising: managing user information for users of wireless client terminal devices indicating at least conditions under

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which the wireless client terminal devices are connected to a network based on unique identification numbers assigned to the client terminal devices (Ito, col. 2, lines 55-66); selecting a communication application suitable for both a first client terminal device and a second client terminal device and user of the second client terminal device, after at least one of the users request communication; and making a connection for communication between the first client terminal device and the second client terminal device (Ito, col. 8, lines 6-16). Wherein the conditions include an available transmission bit rate of each client terminal device, and a type of peripheral device associated with each client terminal device (Shiotsu, col. 7, lines 20-30).

3. As per claims 3,10 Ito-Shiotsu disclosed A user wireless terminal device, comprising: a list storage unit operable to store a list including at least identification numbers assigned to wireless terminal devices for communication, addresses of the terminal devices (Ito, col. 5, lines 24-35), and conditions for connecting the terminal devices to a network; an application storage unit operable to store a plurality of communication applications corresponding to different conditions for connecting the terminal devices to the network (Ito, col. 2, lines 55-66), an application storage unit operable to store a plurality of communication applications for connecting the terminal devices to the network and a connection controller operable, (i) to read out from the application storage unit a communication application that meets the conditions for connecting both the user wireless terminal device and a terminal device of another communication party to the network after a user of the user wireless terminal device requests communication, and (ii) to make a connection for communication between the user wireless terminal device and the terminal device of the another communication party (Ito, col. 6, lines 10-

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26). Wherein the conditions include an available transmission bit rate of each client terminal device and a type of peripheral device associated with each terminal device (Shiotsu, col. 7, lines 20-30).

4. As per claims 4,7,11,20 Ito-Shiotsu disclosed wherein the list is stored in the list storage unit after being downloaded from a communication server machine connected with the user wireless terminal device through the network (Ito, col. 7, lines 19-27).

5. As per claims 5,8,12,21 Ito-Shiotsu disclosed wherein at least one of the list storage unit and the application storage unit is selected from the group consisting of a hard disk drive and a memory card (Ito, col. 4, lines 21-28).

Response to Arguments

6. Applicant's arguments filed 05/21/2007 have been fully considered but they are not persuasive. Response to applicant's arguments are as follows.

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A. Applicant argued that prior art did not disclose, “conditions which include a transmission band; a type of peripheral device associated with each terminal device”.

As to applicant’s argument Shiotsu disclosed, “The user may select a setting mode display on the personal computer 1 and enter titles of available information processing devices data, such as types of the information processing devices with which the personal computer is to communicate or protocol by which communication is to be done. Then, he or she modifies, through a keyboard, the transmission power default values (for example, the highest transmission power of 1 m W and other values) by entering the higher transmission power level H_i or H_{ij} and the lower transmission power level L_{ij} for each of the entered application programs or device data (col. 7, lines 20-30).

B. Applicant argued that prior art did not disclose, “to increase efficiency of managing the network bandwidth and selecting a more efficient transmission rate”.

As to applicant’s argument Ita disclosed, “the signal processing unit of the personal computer commands the communication unit to change the transmission to the predetermined lower or higher levels. Fig 7 and 7B show the connection of the signal processing unit 11, a baseband signal section, a RF section and variable attenuator connected to an antenna, for adjusting the attenuator connected to an antenna, for adjusting the attenuation factor or amount fo attenuation provided by the variable attenuator (col. 13, lines 26-34).

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C. Applicant argued that prior art did not disclose, “the required evidence for a motivation for a person of ordinary skill in the art to perform such modification”.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ito taught in the method and system of Shiotsu to increase the efficiency of managing the network bandwidth and selecting more efficient transmission rate.

D. Applicant argued that prior art did not disclose, “an available transmission bit rate of each client terminal device”.

As to applicant's argument Shiotsu disclosed, “the mobile station communication unit of each of the information processing units can be adjusted by controlling a transmitter amplifier gain, an attenuation factor an antenna gain and/or an antenna direction of a directional antenna by means of the communication monitoring and controlling function provided for each information processing device (col. 6, lines 57-63).

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E. Applicant argued that there is no suggestion and motivation to combine the prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case as taught by Ito in the method and system of Shiotsu to increase the efficiency of managing the network bandwidth and selecting more efficient transmission rate.

Conclusion

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

9. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-

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746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).



Adnan Mirza

Examiner



JASON CARDONE
SUPERVISORY PATENT EXAMINER